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Licata & Tyrrell P.C.

66 E. Main Street
Marlton, New Jersey

Tel: (856) 810-1515

Fax: (856) 810-1454

November 3, 2003

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TO: Examiner Wilder (TC1600)

GROUP: 1637

FAX NUMBER: 703-872-9306

ATTORNEY DOCKET NO.: DEX-0273

SERIAL NO.: 10/001,857

FILED: November 20, 2001

NUMBER OF PAGES:

MESSAGE: Attached please find Amendment Transmittal Letter, Reply to Restriction Requirement and Certificate of Transmission by Facsimile.

Kathleen A. Tyrrell, Registration No. 38,350

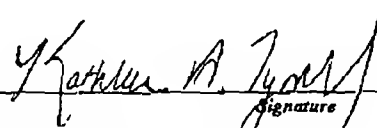
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AMENDMENT TRANSMITTAL LETTER (Large Entity)				Docket No. DEX-0273	
Applicant(s): Macina et al.					
Serial No. 10/001,857	Filing Date November 20, 2001	Examiner Wilder, Cynthia B.		Group Art Unit 1637	
Invention: Compositions and Methods Relating to Lung Specific Genes and Proteins					
<u>TO THE COMMISSIONER FOR PATENTS:</u>					
Transmitted herewith is an amendment in the above-identified application.					
The fee has been calculated and is transmitted as shown below.					
CLAIMS AS AMENDED					
	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	19	20	0 x	\$18.00	\$0.00
INDEP. CLAIMS	2	5	0 x	\$84.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT					\$0.00
<input checked="" type="checkbox"/> No additional fee is required for amendment. <input type="checkbox"/> Please charge Deposit Account No. _____ in the amount of _____ <input type="checkbox"/> A check in the amount of _____ to cover the filing fee is enclosed. <input checked="" type="checkbox"/> The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-1619 <input checked="" type="checkbox"/> Any additional filing fees required under 37 C.F.R. 1.16. <input checked="" type="checkbox"/> Any patent application processing fees under 37 CFR 1.17.					
 Kathleen A. Tyrrell, Registration NO. 38,350			Dated: November 3, 2003		
LICATA & TYRRELL P.C. 66 East Main Street Marlton, New Jersey 08053 Tel: 856-810-1515 Fax: 856-810-1454			I certify that this document and fee is being deposited on _____ with the U.S. Postal Service as first class mail under 37 C.F.R. 1.6 and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. _____ Signature of Person Mailing Correspondence _____ Typed or Printed Name of Person Mailing Correspondence		
cc:					

11/03/03 12:04 FAX 856 810 1454

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: DEX-0273
Inventors: Macina et al.
Serial No.: 10/001,857
Filing Date: November 20, 2001
Examiner: Wilder, Cynthia B.
Group Art Unit: 1637
Title: Compositions and Methods Relating to
Lung Specific Genes and Proteins

Certificate of Facsimile Transmission

I hereby certify that this document is being facsimile
transmitted to the Patent and Trademark Office on
the date shown below.

On November 3, 2003


Kathleen A. Tyrrell, Registration No. 38,350

Mail Stop
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Reply to Restriction Requirement

This is a reply to the Restriction Requirement mailed
October 2, 2003 setting a one (1) month statutory period for
response. Please enter the following remarks into the record.

Remarks begin at page 2.

Attorney Docket No.: DEX-0273
Inventors: Macina et al.
Serial No.: 10/001,857
Filing Date: November 6, 2001
Page 2

REMARKS

Claims 1-17 are pending in the instant patent application. Claims 1-17 have been subjected to a Restriction Requirement as follows:

Group I, claims 1-5, 7-9, and 15, drawn to an isolated nucleic acid, classified in class 536, subclass 23.1;

Group II, claims 6 and 14, drawn to a hybridization method for determining the presence of lung specific nucleic acid (LSNA), classified in class 435, subclass 6;

Group III, claim 10, 11 and 15, drawn to an isolated polypeptide, classified in class 530, subclass 350;

Group IV, claims 12, drawn to an antibody, classified in class 424, subclass 130.1;

Group V, claims 13, 14, drawn to a protein binding assay for determining the presence of lung specific nucleic acid, classified in class 435, subclass 7.1;

Group VI, claim 16, drawn to a method of treating a patient with drug, classified in class 514, subclass 12; and

Group VII, claim 17, drawn to a vaccine, classified in class 424, subclass 184.1.

The Examiner suggests that these Groups are distinct, each

Attorney Docket No.: DEX-0273
Inventors: Macina et al.
Serial No.: 10/001,857
Filing Date: November 6, 2001
Page 3

from the other.

Specifically, with respect to Groups I, III, IV and VII, the Examiner suggests that the claims of these Groups are drawn to unrelated products.

With respect to Groups I and II, IV and Groups III, IV and V, VI, the Examiner has acknowledged their relationships as product and process of use. However, the Examiner suggests that these Groups are distinct because the products can be used in materially different processes.

With respect to Groups II, V and VI, the Examiner suggests that the Groups are unrelated methods.

Further, the Examiner suggests that each of the above Groups reads on patentably distinct sequences and has requested that Applicants further elect a single amino acid or single nucleic acid sequence.

Applicants respectfully traverse this Restriction Requirement.

MPPEP §803 provides two criteria which must be met for a restriction requirement to be proper. The first is that the inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A search of prior art relating to an elected

Attorney Docket No.: DEX-0273
Inventors: Macina et al.
Serial No.: 10/001,857
Filing Date: November 6, 2001
Page 4

nucleic acid, polypeptide or antibody would also reveal any references teaching uses for the nucleic acid, polypeptide or antibody. Accordingly, Applicants believe that searching of all the claims, at least when limited to elected nucleic acids, polypeptides, or antibodies, is overlapping and would not place an undue burden on the Examiner if the Restriction is not made.

Thus, since this Restriction Requirement does not meet both criteria as set forth in MPEP § 803 to be proper, reconsideration and withdrawal of this Restriction Requirement is respectfully requested.

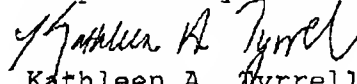
In addition, with respect to the election of a single sequence, MPEP § 803.04 clearly states that a reasonable number of nucleotide sequences, normally ten sequences, can be claimed in a single application. Accordingly, withdrawal of this sequence election requirement and reconsideration to include a more reasonable number of at least 10 sequences in accordance with MPEP § 803.04 is also respectfully requested.

However, in an earnest effort to advance the prosecution of this case Applicants elect Group I, claims 1-5, 7-9 and 15 with traverse. Further, Applicants elect SEQ ID NO:42 encoding SEQ ID NO:145, with traverse.

Attorney Docket No.: DEX-0273
Inventors: Macina et al.
Serial No.: 10/001,857
Filing Date: November 6, 2001
Page 5

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,


Kathleen A. Tyrrell
Reg. No. 38,350

Date: November 3, 2003

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Marlton, New Jersey 08053
(856) 810-1515